THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.16412 of 1998

Date:28.03.2007

Between:

R.Rani

..... PETITIONER

AND

The Joint Collector,
Chittoor and others.

..... RESPONDENTS

ORDER:

The petitioner is the daughter of one Sri K.Munirathnam Reddy. According to her, Munirathnam Reddy executed a Will, dated 09.04.1995, bequeathing about Acs.7.00 of land in various survey numbers of Kothapalli Village, Chittoor District. After the death of her father on 02.09.1995, the petitioner filed an application before the Mandal Revenue Officer, Irala, the third respondent herein, under Section 6-A of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). The petitioner was issued a pattadar pass book in respect of the lands covered by the Will. Her mother, the fourth respondent herein, submitted a representation before the Revenue Divisional Officer, the second respondent, aggrieved by the issuance of pattadar pass book in favour of the petitioner. The second respondent passed an order, dated 23.11.1996, setting aside the pattadar pass book issued in favour of the petitioner. Thereupon, the petitioner filed a revision before the Joint Collector, Chittoor, the first respondent, under Section 9 of the Act. The revision was rejected on 02.02.1998. Hence, this writ petition.

Sri K.S.Gopalakrishnan, the learned counsel for the petitioner submits that the second respondent proceeded on wrong assumption of fact and improper understanding of law. He contends that the second respondent was impressed mainly by the fact that the Will was not registered and when it is not required to be registered in law, the very basis disappears. The learned counsel further submits that the first respondent did not appreciate the matter from the proper perspective.

The learned Government Pleader for Revenue, on the other hand, submits that it is only a person, who is recorded as pattadar, owner or tenant in the revenue records, that can make an application under Section 6-A of the Act and the very process initiated by the petitioner was contrary to the Act.

The Act provides for maintenance of records, recording of names of the persons holding rights vis-à-vis the lands, amendment of the entries and the matters connected there with. In the year 1989, the Act was amended providing for issuance of pattadar pass book and title deed by incorporating Section 6-A.

On the basis of the Will said to have been executed by her father, the petitioner straightaway made an application under Section 6-A. A bare perusal of this provision discloses that it is only the owner, pattadar, mortgagee or tenant that is entitled to apply for

issuance of pattadar pass book. Admittedly, by the time the petitioner submitted her application under Section 6-A, she was not the pattadar, mortgagee or tenant.

The word 'owner' is defined under Section 2(6) (a) of the Act. It is an inclusive definition, taking in its fold, any person who has permanent and heritable rights of possession of the land, which can be alienated, and includes the holder of a patta issued to him as a landless poor person. The emphasis is on the rights that are already possessed by a person, and not those that are to be determined afresh. The words 'who has permanent and heritable rights of possession' employed in this definition assume significance. They suggest that the rights indicated therein must have already been inexistence. The petitioner does not assert that her rights have been determined by any agency before she submitted application under Section 6-A. Therefore, there was no occasion for the petitioner to approach the third respondent with an application under Section 6-A.

It is not as if the petitioner does not have a remedy under the Act. Section 4 of the Act provides for situations which entail accrual of rights in land to the person; be it on account of succession, survivorship, inheritance, partition, decree of a Court or otherwise. As and when such rights accrue to an individual over the land, he has to seek amendment of the relevant entries in the revenue records, by filing an application under Section 5 of the Act. The recording authority is required to issue notice to the affected persons and carry out amendments in the revenue records in recognition of accrual of rights. It is only when the entries are amended, that a situation would emerge for the party concerned, to make an application under Section 6-A of the Act. In such an event, if the pattadar pass book is to be issued for the first time, no difficulty as such would arise. On the other hand, if the pattadar pass book was already issued in favour of any one, the same has to be cancelled through an administrative order and a fresh pass book needs to be issued to the applicant in accordance with the entries amended under Section 5 of the Act.

Respondents 1 and 2 have examined the matter from the correct perspective and left it open to the petitioner to work out her remedies in accordance with law. The fact that the mother of the petitioner and her sister's son, respondents 4 and 5, have opposed the claim of the petitioner, discloses that there is no possibility for recognition of her rights by the recording authority under Sections 4 and 5 of the Act. The petitioner has to work out her remedies in a civil Court and that is what respondents 1 and 2 have observed.

Hence, the writ petition is dismissed, leaving it open to the petitioner to work out her remedies in a civil Court, in accordance with law. The suit as and when filed, shall be decided on its own merits uninfluenced by any observations made in this set of proceedings. There shall be no order as to costs.

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28.03.2007

Note: L.R. copy to be marked.
kdl